IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 20092 of 2003

Between:

K.V.S.N.Acharyulu, S/o.late K.V.V.L.N.Acharyulu,
R/o.MIG-III, APHB Colony, Tadepalligudem, W.G.Dist.

... PETITIONER

AND

1 The Superintending Engineer, Operation, EPDCL/Eluru,
Near Gajjalavari Tank, Eluru-1
2 The Chairman & Managing Director of E.P.D.C.L. of A.P., Visakhapatnam.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ, order or direction more particularly one in the nature of writ of mandamus:-i) to declare the action of the respondents herein as illegal, arbitrary and unconstitutional in issuing the Memo dated 12-9-2003 vide letter No.SE/O/ELR/Adm/F.137/D.No.520/03 and set aside the same. ii) To declare the action of the respondents herein in not appointing the petitioner as L.D.C. as illegal and arbitrary. iii) To direct the respondents to appoint the petitioners herein as L.D.C. under the respondents.

Counsel for the Petitioner: MS.R.ANNAPURNA

Counsel for the Respondents: SMT.URMILA

The Court made the following order:

ORDER:

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Petitioner questions the order dated 12.09.2003 in rejecting the case of the petitioner for his absorption as LDC under BPMS.No.36 dated 18.05.1997 on the ground that he was not on the rolls of the respondent corporation as on 18.05.1997.

Learned counsel appearing for the petitioner submits that, in fact, the petitioner was on the rolls as contract labour under a contractor in respect of LS Agreement No.39/1996-1997 dated 18.02.1997 and as per the agreement the work has to be completed within a period of 90 days. The work was completed on 18.05.1997 and therefore, it cannot be said that the petitioner was not on the rolls as contract labour on 18.05.1997.

On the other hand, learned counsel appearing for the respondents submits that, in fact, the check measurements was made on 18.02.1997 and payment also was made on 20.02.1997 i.e., much before the crucial date of 18.05.1997.

Merely because the agreement was entered on 18.02.1997 it cannot be said that the work was not commenced earlier to the actual date of agreement. However, I am not inclined to decide the disputed questions of fact and there is no acceptable evidence to show that the petitioner was on the rolls as contract labour as on 18.05.1997. The writ petition is devoid of

merit and deserves to be dismissed.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

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V. ESWARAIAH, J

November 18, 2004

Dsk

To

1 The Superintending Engineer, Operation, EPDCL/Eluru, Near Gajjalavari

Tank, Eluru-1

2 The Chairman & Managing Director of E.P.D.C.L. of A.P., Visakhapatnam.

3 Two CD Copies.